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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Amador)

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THE PEOPLE,

Plaintiff and Respondent,

v.

JEREMY CHARLES PRATT,

Defendant and Appellant.

C085345

(Super. Ct. No. 15CR23206)

A jury found defendant Jeremy Charles Pratt guilty of felony vandalism. Defendant appeals, contending there was insufficient evidence of his identity as the vandal to support his conviction. We conclude there was sufficient evidence and affirm the judgment.

BACKGROUND

Defendant and N. had been married for about five years and had two children together. At the time of the subject incident, they were going through a highly contested divorce. J. and N. taught school together at a junior high school. J. knew

defendant, having socialized with him a couple of times while defendant had been married to N.

At about 10:15 a.m. on January 16, 2015, while standing near a parking lot at the junior high school, J. heard a popping sound followed by the sound of air leaving a tire. J. ran toward the sound and found a flat tire on the vehicle N. had been borrowing from her father. J. looked up and saw an individual wearing blue jeans and a khaki jacket, walking down the street away from the school. J. testified he recognized the individual to be defendant based on his familiarity with defendant's stature and gait. Although defendant's back was to him, J. also recognized defendant's reddish blond hair. J. ran to the school's office to report what had happened and call 911.

The school's administrator was in the school's office when J. came in to report the vandalism to N.'s car. The administrator testified that J. reported it looked like it was "Jeremy" who had committed the act. The administrator called the police.<sup>1</sup>

A school secretary immediately contacted N. in her classroom about the incident. N. ran down to the parking lot to her car. As she did, she saw defendant for a couple of seconds, about a block away, at the end of the street leading to the school, turning right at the corner. She inspected her vehicle and found the two front tires had been "slashed" or punctured and were flat. It cost \$514 to replace the tires.

After contacting the police, the administrator reviewed the school's surveillance camera's video of the parking lot. The video depicted defendant standing on the road, watching the campus for about a minute or two before entering the campus and approaching the cars in the parking lot. Defendant then left the area by the cars and walked down the street, as J. appeared in the camera's view. The administrator had hired

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<sup>1</sup> When Police Officer Carlo Sgroi responded to the school and interviewed J. about the incident, J. said he did not recognize the person who he saw walking away from the school and stated the person was wearing khaki type pants and a dark jacket.

N., attended her wedding to defendant, and had socialized with the couple while they were married. He had known defendant for a number of years and had a picture of defendant and his family on his office refrigerator for five years. The administrator described defendant as having a distinctive walk, powerfully built, and one who commonly wore the same jacket the individual was seen wearing in the school's video at the time of the incident.

N. also watched the surveillance video of the scene and identified defendant as the person seen approaching her vehicle in the school parking lot that day. N. testified defendant has a very distinctive, bow-legged walk. She also noted he had on the brown Carhartt jacket she knew he carried in the back of his Ford F250 pick-up truck he drove at the time.

The school's surveillance video of the incident was played for the jury.

At the time of the incident, defendant was employed as an assistant plant manager at a pastry plant in Stockton. The plant had security surveillance cameras, including one located at the plant's entrance. The plant co-owner and president testified the surveillance video of the front entrance on January 16, 2015, depicted defendant exiting the plant, getting into his pick-up truck, and driving away at 9:11 a.m. Another later portion of the surveillance video showed defendant returning to the plant at 12:03 p.m. that day. The plant co-owner, who had known defendant for several years, testified he "recognized everything about" defendant, including his gait and clothing. The co-owner also recognized defendant's truck. After reviewing the video, the co-owner questioned defendant about leaving and coming back that day. Defendant told him he had been there from 7:00 a.m. to 3:30 p.m. When defendant was terminated from his job at the plant, the co-owner confronted defendant again about seeing him leave and come back that day. In response, defendant stated he had a right to leave for his lunch any time he wanted.

Both portions of the pastry plant surveillance security video were played for the jury.

Defendant testified he was at work on January 16, 2015. He denied being the person depicted on the plant's video leaving and returning to work that day. He also denied traveling from his workplace to the junior high on the day of the incident and being the person on the school surveillance video going between the cars and vandalizing a couple of tires. Defendant testified there was a dress code that required he wear slacks, a button-up dress or polo shirt, and loafers. While in the facility, he wore a white robe, booties, and a hair net. He admitted he owned jeans and a jacket similar to the one worn by the person in the video, but claimed he never wore jeans to the plant, the jacket was hanging in N.'s parents' garage on the day of the incident, and he did not have access to it. He testified that on the day of the incident, he had worn light cream-colored khakis to work.

Defendant admitted he owned a brown 2006 Ford F250 pick-up truck, but denied he drove it on the day of the incident. He claimed he had previously switched vehicles with his girlfriend and had been driving her 2011 Nissan Altima coupe that day. Defendant's girlfriend corroborated his statement.

## DISCUSSION

Defendant contends there was insufficient evidence of his identity as the perpetrator of the vandalism to support his conviction. We reject this contention.

“On appeal, the test of legal sufficiency is whether there is substantial evidence, i.e., evidence from which a reasonable trier of fact could conclude that the prosecution sustained its burden of proof beyond a reasonable doubt. [Citations.] Evidence meeting this standard satisfies constitutional due process and reliability concerns. [Citations.] [¶] While the appellate court must determine that the supporting evidence is reasonable, inherently credible, and of solid value, the court must review the evidence in the light most favorable to the [judgment], and must presume every fact the jury could reasonably

have deduced from the evidence. [Citations.] Issues of witness credibility are for the jury.” (*People v. Boyer* (2006) 38 Cal.4th 412, 479-480.)

Substantial evidence also includes circumstantial evidence and any reasonable inferences flowing therefrom. (*People v. Cole* (1994) 23 Cal.App.4th 1672, 1678, citing *In re James D.* (1981) 116 Cal.App.3d 810, 813.) It is not necessary that any of the witnesses identifying the accused saw his face. (*People v. Loar* (1958) 165 Cal.App.2d 765, 773.) The defendant’s identity may be proved by “peculiarities of size, appearance, similarity of voice, features or clothing.” (*People v. Lindsay* (1964) 227 Cal.App.2d 482, 494.) For us to set aside the jury’s finding that defendant was guilty of the January 15, 2015 vandalism, “the evidence of identity must be so weak as to constitute practically no evidence at all.” (*Id.* at p. 493.)

Here, the evidence, including the video footage viewed by the jury and testimony of witnesses who knew and recognized defendant, showed defendant leaving his workplace and driving away that morning in his pick-up truck, walking onto the school campus and into the parking lot, walking away from the school and turning the corner, and then later arriving back at his workplace. The witnesses described defendant’s build, distinctive gait and uncommon hair color, as well as the jacket he often wore. The jury could evaluate the similarities of defendant’s clothing at the workplace and at the school. It could also evaluate whether he did, in fact, have a distinctive gait that would allow those who knew him to recognize him from the rear. It could also evaluate whether defendant looked like the individual in the videos. Although defendant denied he was the individual in either video, the jury could decide his testimony was not credible.

Reviewing the record in the light most favorable to the judgment, we conclude substantial evidence supports the jury’s finding defendant was the person who committed the vandalism.

DISPOSITION

The judgment is affirmed.

\_\_\_\_\_/s/  
HOCH, J.

We concur:

\_\_\_\_\_/s/  
BUTZ, Acting P. J.

\_\_\_\_\_/s/  
DUARTE, J.